12/04 (40243)

FILED IN THE UNITED STATES DISTRICT COURT DISTRICT OF HAWAII

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR COMPRENE SUE BEITIA, CLERK SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court			
Name (under which you were convicted);	District HONOLULU, HAWAII		
JOSEPH PAJARDO	Docket or Case No.: 01-00160-0450M		
Place of Confinement: F.C.I. ATLANTA	Prisoner No.:		
UNITED STATES OF AMERICA	88110-022		
OTTO DO STATES OF AMERICA	Movant (include name under which you were convicted)		
V.	JOSEPH PAJARDO		
MO	TION		
UNITED STATES DISTRICT CON	e judgment of conviction you are challenging:		
HAWAII	ORL FOR THE DISTRICT OF		
(b) Criminal docket or case number (if you know	w): CR-01-00160-4-500		
(a) Date of the judgment of conviction (if you kr	now): APRIL 21 2001		
	The state of the s		
(b) Date of sentencing: MARCH 29, 20	004		
Length of sentence: 215 MONTHS			
Nature of crime (all counts): (4) COUNTS To	OTAL 21U.S.C. 846; 21U.S.C. 843(B)		
ETABLE THOUSE TO THE	STUDIES OF THE HOUSE AND IN U.S.C. SECTION O (CONSPIRACY TO MILLIONIA)		
THE HALLOWATER DISTRIBUTE	E ANN DACCECION NUMBER OF THE		
WALTINIA LOOJAKANO OF WEIH.	MSE VETELEONALE TO PARTY		
	JERMY OF CRACTAL METERS A		
TDV T	1) POUNDS OF CRYSTAL METH.		
(a) what was your plea? (Check one)			
(1) Not guilty (2) Guilty (2)			
(b) If you entered a guilty plea to one count or in	dictment, and a not guilty plea to another count		
or indictment, what did you plead guilty to and what did you plead not guilty to?			
<u> </u>			
If you went to trial subothing actives			
If you went to trial, what kind of trial did you has	se? (Check one) Jury O Judge only O N/A		

			Page :
7. Did you testify at a pretrial hearing, trial, or post-trial hearing?	Yes D	No O	N/A
8. Did you appeal from the judgment of conviction?	Yes 🗶	No I	
9. If you did appeal, answer the following:			
(a) Name of court: U.S. COURT OF APPEALS FOR THE	HIMIN	CIRCU	, amenda de la compansa de la compan
(b) Docket or case number (if you know): <u>04-10230</u>			
(c) Result: DISMISSED IN PART: REMANDED IN	PART		
(d) Date of result (if you know): JAN, 9, 2006(SENTEN	ICE REDUC	TIONIT	97.0
(e) Charlon to the case (if you know):UNKNOWN			
(1) Grounds raised: <u>UIOLATION OF U.S. v. BOOKER</u>	R (DRUG)	MOUNT	<u> </u>
FIREHRIT POSSESSION NOT ADMITTED NOR	PONIEN	ace	<u>0 M</u>
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DENYING MOTION FOR DOWNWARD DEPART	TURE.		
	and defining to a place of the same of the		
			of Artesislanda massage
(g) Did you file a notition for section in	Minimum on the state of the sta		~~~~
(g) Did you file a petition for certiorari in the United States Supreme If "Yes," answer the following:	Court?	Yes 🗅 N	o 🗶
(1) Docket or case number (if you know):			
(2) Result:	the state of the s	and the second s	
		- mary of the same	MAN a sensitiva e a perop
(3) Date of result (if you know):			
(4) Citation to the case (if you know):	**************************************		***************************************
(5) Grounds raised:	Andrew Control of the		
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		the state of the s	to Am a sign asserta _l as,
	of the second se		**************************************
10. Other than the direct appeals listed above, have you previously filed ar	v other motio	rest of the second seco	**************************************
petitions, or applications concerning this judgment of conviction in any	murt?	115,	
Yes 🔾 No 🔀	on car of		
11. If your answer to Question 10 was "Yes," give the following information			
(a) (1) Name of court:			
(2) Docket or case number (if you know):	Haydali ka masaniyada Asaniyaya da damasa an ayaniyada da damasa ayan da da asanin ayan da da asanin ayan da d	andrews promised delicates a discussion of a discussion of the delication of the del	
(3) Date of filing (if you know):	ti generalista del generalista de al del communicación de del de al del de al del communicación de la communic		

(4) Nature of the proceeding:	Page 4
(5) Grounds raised:	
	and the state of the
	anggannamag ng pgamahan amiyafidamaga tai dinanamaga kilama namaga ilinanamaga dinanaga galama gay.
	April Advisorage property and describe a second property and a second property of the second property and a se
	and the state of t
	Namenganggan dan mengahan kebanggan sajah dibahan pejajah di menganan kebuahan pemejah Pelaskan menggan jaga p
(6) Did you receive a hearing where evidence was given on your motion,	petition or
application? Yes 🗆 No 🔾 N/A	,,,,
(7) Result:	
(8) Date of result (if you know):	
(b) If you filed any second motion, petition, or application, give the same inf	ormation:
(1) Name of court:	
(2) Docket or case number (if you know):	manus of the forest time of the forest time to the forest time time to the forest time time time time time time time tim
(3) Date of filing (if you know):	karaman perjebuhkan menjebuh samaman keperdahan menjebuhkan menjeb
(4) Nature of the proceeding:	Annual (Article of Article of Article of Marie of Marie of Article
(5) Grounds raised:	energy processes to the following report a constitution for the constitution of the co
	The state of the s
	And the second s
	10 mm and 10 mm
	Manager of Spinger control of the Spinger of State of the Spinger of Spinger
(6) Did you receive a hearing where evidence was given on your motion, pe	stition, or
application? Yes O No O N/A	
(7) Result: (8) Date of result (if you know):	
(8) Date of result (if you know):	
(c) Did you appeal to a federal appellate court having jurisdiction over the acti	on taken on your
motion, petition, or application?	~
(1) First petition: Yes D No D N/A (2) Second petition: Yes D No D N/A	
(2) Second petition: Yes 🔾 No 🔾 N/A	

e.				
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(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: <u>DEFENSE COUNSEL NEGLECTED ADUISING</u>
DEFENDANT AND DEFENDANT DID NOT KNOW.
19 Rossilian at the second
12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the <u>facts</u> supporting each ground.
GROUND ONE: INEFFECTIVE ASSISTANCE OF COUNSEL
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): ATTORNEY DIO NOTHING TO ASSIST DEFENDANT IN ANY MITIGATING DEFENSE.
ATTORNEY'S LACK OF RULE IL OBJECTION.
DEFENSE ATTORNEY'S COMPETENCE IN EFFECTIVE DEFENSE. (MOTION FOR DISCOUERY TO GAIN EVIDENCE SUBMITTABLE TO THIS COURT.)
(b) Direct Appeal of Ground One: (I) If you appealed from the judgment of conviction, did you raise this issue? Yes O No X
(2) If you did not raise this issue in your direct appeal, explain why: SAME LEGAL COUNSEL FOR APPEAL DEFENSE COUNSEL NEVER ADVISED
HS TO HUNILABILITY
(c) Post-Conviction Proceedings:
(1) Did you raise this issue in any post-conviction motion, petition, or application? Yes 🔾 No 🕱
(2) If your answer to Question (c)(1) is "Yes," state:
Type of motion or petition:
Name and location of the court where the motion or petition was filed:



	Docket or case number (if you knew):
	Date of the court's decision:
	Result (attach a copy of the court's opinion or order, if available):
	/A
	(3) Did you receive a hearing on your motion, potition, or application? Yes O No ONA
	(4) Did you appeal from the denial of your motion, petition, or application? Yes O No N/A
	(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal? Yes No N/A
i	(6) If your answer to Question (c)(4) is "Yes," state:
	Name and location of the court where the appeal was filed:
,	Docket or case number (if you know):
-	Oate of the court's decision:
- Partie	Result (attach a copy of the court's opinion or order, if available):
**	N/
7.00	/ / /
(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or
ľ	aise this issue: DEFENSE COUNSEL INFFFECTIVENESS: AND
- Andreas	ACK OF DEFENDANT'S LEGAL KNOWLEDGE
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	UND TWO: TITLE 18 IS UNCONSTITUTIONAL
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C	upporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
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(giana)	ORUM' OF ITS' MEMBERS.
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	1984/98/Piller 1994/98/Piller 1994/Piller 1994/98/Piller 1994/Piller 1994/98/Piller 1994/Piller 1994/Piller 1994/Piller 1994/Piller 1994/Piller 1994/Piller 1994/Piller 1994/Piller 1994/P

Direct Appeal of Ground Two:  (1) If you appealed from the judgment of conviction, did you raise this issue?  Yes  No  No
(1) If you appealed from the judgment of conviction, did you raise this issue?
7 C3 7 140 3d
(2) If you did not raise this issue in your direct appeal, explain why: INEFFECTIVE  ASSISTANCE OF COUNSEL & DEFENDANT LACK OF LEGAL  KNOWLEDGE
ost-Conviction Proceedings:
(1) Did you raise this issue in any post-conviction motion, petition, or application?  Yes Q No 🕱
2) If your answer to Question (c)(1) is "Yes," state:  Type of motion or petition:
Name and location of the court where the motion or petition was filed:
Oocket or case number (if you know):
eate of the court's decision:
lesult (attach a copy of the court's opinion or order, if available):
B) Did you receive a hearing on your motion, petition, or application?  Yes O No N/A
I) Did you appeal from the denial of your motion, petition, or application?  Yes O No ONA
i) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?  Yes O No O N/A
) If your answer to Question (c)(4) is "Yes," state:
ame and location of the court where the appeal was filed:
ocket or case number (if you know):
ate of the court's decision:
esult (attach a copy of the court's opinion or order, if available):

Pag
(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: DEFENSE COUNSEL INFFECTIVENESS AND DEFENDANT'S LACK OF LEGAL KNOWLEDGE.
TO THE TOTAL TOWN AND THE T
GROUND THREE: DIOLATION OF F.R.C.P. RULE II
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.)  NEESSITY FOR PROPER COURTROOM COLLOQUY FOR  DEFENDANT NOT PERFORMED.
DEFENDANT NOT LEVENUED
(b) Direct Appeal of Ground Three:
(1) If you appealed from the judgment of conviction, did you raise this issue? Yes □ No ■
(2) If you did not raise this issue in your direct appeal, explain why: INEFFECTIVE
ASSISTANCE OF COUNSEL & DEFENDANT LACK OF
LEGAL KNOWLEDGE  (c) Post-Conviction Proceedings:
(1) Did you raise this issue in any post-conviction motion, petition, or application?
Yes O No 🕱
(2) If your answer to Question (c)(1) is "Yes." state:
Type of motion or petition:
Name and location of the court where the motion or petition was filed:
Docket or case number (if you know):
Date of the court's decision:

Result (attach a conv	of the court's opinion or order, if available):
	of the totales opinion of order, it available);
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(3) Did you receive a b	nearing on your motion, petition, or application?
(4) Did you appeal from	n the denial of your motion, petition, or application?
(5) If your answer to Q Yes \( \text{Ves}  \text{No}  \text{N} \)	uestion (c)(4) is "Yes," did you raise this issue in the appeal?
r ·	uestion (c)(4) is "Yes," state:
	he court where the appeal was filed:
Docket or case number	(if you know):
	sion:
	f the court's opinion or order, if available):
MANAGEMENT AND	
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(7) If your answer to Qt	ıestion (c)(4) or Question (c)(5) is "No," explain why you did not appeal or
raise this issue: DEF	ENSE COUNSEL INEFFECTIVENESS AND
DEFENDANTS	LACK OF LEGAL KNOWLEDGE.
the state of the s	THE WILL THOUSE DOE.
Traire species.	% ⁶ /
OUND FOUR:	N/
Supporting facts (Do not	argue or cite law. Just state the specific facts that support your claim.):
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	- The state of the
	641 4-16-16-16-16-16-16-16-16-16-16-16-16-16-

		Page 10
 (b)	Direct Appeal of Ground Four:	
•	(1) If you appealed from the judgment of conviction, did you raise this issue?  Yes O No O N/A	
	(2) If you did not raise this issue in your direct appeal, explain why:	
c) .	Post-Conviction Proceedings:	
	(1) Did you raise this issue in any post-conviction motion, petition, or application?  Yes □ No □ N/A	
	(2) If your answer to Question (c)(1) is "Yes," state:  Type of motion or petition:	
	Name and location of the court where the motion or petition was filed:	
	Docket or case number (if you know):  Date of the court's decision:	
	Result (attach a copy of the court's opinion or order, if available):	
i	(3) Did you receive a hearing on your motion, petition, or application?  Yes \(\sigma\) No \(\sigma\)/\(\beta\)	
(	(4) Did you appeal from the denial of your motion, petition, or application?  Yes □ No □ N/A	
(	(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?  Yes O No N/A	
(	(6) If your answer to Question (c)(4) is "Yes," state:	
	Name and location of the court where the appeal was filed:	
Ι	Oocket or case number (if you know):	
1	Date of the court's decision:	
	Result (attach a copy of the court's opinion or order, if available):	
,,		

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	(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or
	raise this issue:
	The state of the s
13.	Is there any ground in this motion that you have <u>not</u> previously presented in some federal court?
	If so which ground as grounds have not been presented.
	If so, which ground or grounds have not been presented, and state your reasons for not
	presenting them: UNCONSTITUTIONALITY OF TITLE 18 &
	ERCP RULE II.
	DEFENSE ATTORNEY'S INEFFECTIVENESS & DEFENDANT
	LACK OF LEGAL KNOWLEDGE
4	Ty.
4,	Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court
	for the judgment you are challenging? Yes O No 🕱
	If "Yes," state the name and location of the court, the docket or case number, the type of
	proceeding, and the issues raised.
	pro-
٠	
, 1	Give the name and address, if known, of each attorney who represented you in the following
	stages of the judgment you are challenging:
	The state of the s
١	(a) At preliminary hearing: <u>SERRY WILSON ADDRESS NOT KNOW</u> N
**	
(	b) At arraignment and plea: GLENN CHOY 735 BISHOP ST. SUITE
.3	322 HONOLULU, HAWAII 96813
(	c) At trial:
	A Company of the Comp
,	A SERVICE SOME OC AT ASSAULTED TO
(	d) At sentencing: SAME AS AT ARRAIGNMENT AND PLEA.

	Page 12
	(e) On appeal: SAME AS ABOUE
	(f) In any post-conviction proceeding:
	(g) On appeal from any ruling against you in a post-conviction proceeding:
	A
16.	Were you sentenced on more than one count of an indictment, or on more than one indictment, in
	the same court and at the same time? Yes 🕱 No 🗅
1.7.	Do you have any future sentence to serve after you complete the sentence for the judgment that
	you are challenging? Yes 🖸 No 🕱
	(a) If so, give name and location of court that imposed the other sentence you will serve in the
	future:N
	/
	(b) Give the date the other sentence was imposed:
	(c) Give the length of the other sentence:
	(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the
-	judgment or sentence to be served in the future? Yes D No D N/A

8. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not
bar your motion.*

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

(1) the date on which the judgment of conviction became final;

(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;

(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

^{*} The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

	Page Page
Therefore, movant ask	that the Court grant the following relief: A CORRECTION O
SENTENCET	O A MORE APPLICABLE LOWER RANGE.
or any other relief to w	ich movant may be entitled.
	Signature of Attorney (if any)
I declare (or certify, ve	fy, or state) under penalty of perjury that the foregoing is true and correct
	der 28 U.S.C. § 2255 was placed in the prison mailing system on
Section 1997 - Sectio	
Executed (signed) on	-14-04 (date).
	Signature of Movant
	ot movant, state relationship to movant and explain why movant is not
Andreas of the state of the sta	
	IN FORMA PAUPERIS DECLARATION
	[Insert appropriate court]
	* * * * *